

DATE: March 9, 2017

TO: Alex Dambach, Division Chief  
Department of Planning and Zoning

FROM: Ann Horowitz, Planner  
Madeleine Sims, Senior Planning Technician  
Department of Planning and Zoning

SUBJECT: Special Use Permit #2017-0004  
Administrative Review for Change of Ownership  
Site Use: Restaurant  
Applicant: Dip Raj Magar  
Location: 3807 Mount Vernon Avenue  
Zone: CDD #6 / Coordinated Development District #6

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#### **Request**

Special Use Permit #2017-0004 is a change of ownership request for an existing restaurant on the ground level of a two-story commercial building at 3807 Mount Vernon Avenue. The change of ownership request will transfer the SUP from Sheela Perera to Dip Raj Magar. The applicant plans to change the restaurant format from Asian fusion to Nepalese/Indian fusion. The applicant originally requested a minor amendment for two vehicles, however, he withdrew the request.

#### **Background**

City Council first approved an SUP for a restaurant at this site in 1991 (SUP#2505). Several administrative and City Council SUPs have been approved between 1991 and 1998. In 2013, staff administratively approved SUP2013-0034 for a change of ownership from Nirun Vongpukkean to Sheela Perera.

#### **Parking**

Section 8-200(A)(8) of the Zoning Ordinance requires one off-street parking space for every four restaurant seats. The Zoning Ordinance exempts the first 20 outdoor dining seats. The subject restaurant, with 44 indoor seats and up to eight outdoor seats, is therefore required to provide a total of 11 off-street parking spaces. The applicant exceeds this requirement with a total of six off-street parking spaces on-site in the 10-space parking lot which is shared with existing building tenants and seven spaces located at St. Rita's Church located at 3815 Russel Road.

#### **Community Outreach**

Public notice was provided through eNews, via the City's website, and by posting a placard on the site. In addition, the Arlandria Civic Association and the Hume Spring Citizens Association were sent notification of the application. A resident contacted staff to express concerns about traffic impacts of the delivery vehicles. Staff informed the applicant of this concern and he withdrew the delivery vehicle request.

4. The hours during which the business is open to the public shall be restricted to between 10:00 A.M. and 11:30 P.M., Sunday through Thursday, and between 10:00 A.M. to 1:00 A.M. Friday and Saturday, as requested by the applicant. For indoor patrons, meals ordered before 11:30 p.m. Sunday-Thursday or before 1 a.m. Friday and Saturday may be served, but no new patrons may be admitted and no alcohol may be served, and all patrons must leave by 12:30 a.m. Sunday-Thursday and 2 a.m. Friday and Saturday. (P&Z) (PC)(SUP#2013-0034)
5. The hours of outdoor seating shall be limited to 10:00 A.M. to 9:00 P.M., daily. Outdoor seating shall be cleared of patrons by 9:00 P.M. and the area shall be cleaned and washed at the end of each day that it is in use. Outdoor dining areas shall not include advertising signage, including on umbrellas. (P&Z)(SUP#2013-0034)
6. All loudspeakers are prohibited on the outside of the building and no amplified sound shall be audible past the property line. No music is permitted outside. (P&Z)(SUP#2013-0034)
7. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP#97-0193)
8. No live entertainment shall be provided at the restaurant. (P&Z) (SUP#97-0193)
9. No food, beverages, or other material shall be stored outside. (P&Z) (SUP 2502)
10. Trash and garbage shall be stored inside or in a dumpster. (P&Z) (SUP 2502)
11. **CONDITION AMENDED BY STAFF:** Litter on the site and on the public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day, or more often if necessary, to prevent an unsightly and unsanitary accumulation, on each day that the business is open to the public. (P&Z) (T&ES) (SUP2013-0034)
12. **CONDITION AMENDED BY STAFF:** Trash and garbage shall be stored inside or in sealed containers ~~placed in sealed containers which that~~ do not allow odors to escape ~~and shall be stored inside or in a closed container which does not allow~~ invasion by animals, or leaking. No trash or debris shall be allowed to accumulate on site outside of those containers. Outdoor containers shall be maintained to the satisfaction of the Directors of P&Z and T&ES, including replacing damaged lids and repairing/replacing damaged dumpsters. (P&Z)(T&ES)(SUP2013-0034)

23. No delivery service shall operate from the restaurant. (PZ)(SUP2013-0034)
24. **CONDITION AMENDED BY STAFF:** The applicant shall require its employees who drive to use off-street parking. ~~and/or provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on site for employees.~~ (P&Z)(T&ES)(SUP2013-0034)
25. The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES)(SUP2013-0034)
26. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)(SUP2013-0034)
27. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the Special Use Permit after it has been operational for one year, and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the Director has received a request from any person to docket the permit for review as the result of a complaint that rises to the level of a violation of the permit conditions, or (c) the Director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z)(2013-0034)
28. **CONDITION ADDED BY STAFF:** The applicant shall provide a signed agreement from St. Rita's Church showing that at least seven off-street parking spaces are made available to the applicant to the satisfaction of the Director of Planning & Zoning. The applicant shall provide an up-to-date contract to the Director upon request. (P&Z)
29. **CONDITION ADDED BY STAFF:** The applicant shall encourage its employees to use public transportation to travel to and from work. The business shall contact Go Alex at [goalex@alexandriava.gov](mailto:goalex@alexandriava.gov) for information on establishing an employee transportation benefits program. (T&ES)
30. **CONDITION ADDED BY STAFF:** The applicant shall direct patrons to the availability of parking at the public parking lot at 3700 Mount Vernon Avenue. (T&ES)

#### IV. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

##### Transportation & Environmental Services:

- R-1: 11. Litter on the site and on the public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day, or more often if necessary, to prevent an unsightly and unsanitary accumulation, on each day that the business is open to the public. (P&Z) (T&ES) (SUP2013-0034)
- R-2: 12. **CONDITION AMENDED BY STAFF:** Trash and garbage shall be stored inside ~~placed or~~ in sealed containers ~~which that~~ do not allow odors to escape, and ~~shall be stored inside or in a closed container which does not allow~~ invasion by animals, ~~or leaking~~. No trash or debris shall be allowed to accumulate ~~on-site~~ outside of those containers. Outdoor containers shall be maintained to the satisfaction of the Directors of P&Z and T&ES, including replacing damaged lids and repairing/replacing damaged dumpsters. (P&Z) (T&ES)
- R-3: 14. The applicant shall maintain the concrete driveway and parking lot to the satisfaction of the Director of Transportation and Environmental Services. (T&ES) (P&Z) (SUP#2013-00034)
- R-4: 18. **CONDITION AMENDED BY STAFF:** Kitchen equipment including floor mats shall not be cleaned outside, nor shall any cooking residues be washed into the streets, alleys or storm sewers. (T&ES)
- R-5: 24. **CONDITION AMENDED BY STAFF:** The applicant shall require its employees who drive to use off-street parking. ~~and/or provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on-site for employees.~~ (P&Z) (T&ES)
- R-6: 25. The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES) (SUP#2013-00034)
- R-7: 26. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES) (SUP#2013-00034)

- C-3: Section 5-1-42- Collection by Private collectors. (c) Time of collection. Solid waste shall be collected from all premises not serviced by the city at least once each week. No collections may be made between the hours of 11:00 p.m. and 7:00 a.m. (6:00 a.m. from May 1, through September 30) if the collection area is less than 500 feet from a residential area. (T&ES)
- C-4: The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99). In order to comply with this code requirement, the applicant shall provide a completed Recycling Implementation Plan (RIP) Form within 60 days of SUP approval. Contact the City's Recycling Program Coordinator at (703) 746-4410, or via e-mail at [commercialrecycling@alexandriava.gov](mailto:commercialrecycling@alexandriava.gov), for information about completing this form. (T&ES)
- C-5: The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES)
- C-6: Section 5-1-42- Collection by Private collectors. (c) Time of collection. Solid waste shall be collected from all premises not serviced by the city at least once each week. No collections may be made between the hours of 11:00 p.m. and 7:00 a.m. (6:00 a.m. from May 1, through September 30) if the collection area is less than 500 feet from a residential area. (T&ES)

Fire Department:

- C-7: Due to change in ownership, new owner shall apply for and obtain a new fire prevention permit. Apply at the Code Administration office 301 King St Suite 4200.

Code Enforcement:

No comments received.

Health Department:

No comments received.

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2017-0004. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant at 3807 Mount Vernon Avenue.



Applicant - Signature

03-09-2017

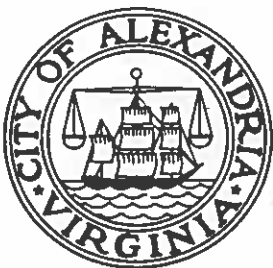
Date

DIP RAI JARGA NIAGAR

Applicant - Printed

03-09-2017

Date



*City of Alexandria, Virginia*  
*Department of Planning & Zoning*

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**SPECIAL USE PERMIT CERTIFICATE**

Article XI, Division A, Section 11-510 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia requires that you display this Special Use Permit in a conspicuous and publicly accessible place. A copy of the list of conditions associated with the Special Use Permit shall be kept on the premises and made available for examination by the public upon request.

Special Use Permit #2017-0004

Approved by Planning and Zoning: March 9, 2017

Permission is hereby granted to: Dip Raj Magar

to use the premises located at: 3807 Mount Vernon Ave

for the following purpose: see attached report

It is the responsibility of the Special Use Permit holder to adhere to the conditions approved by City Council. The Department of Planning and Zoning will periodically inspect the property to identify compliance with the approved conditions. If any condition is in violation, the permit holder will be cited and issued a ticket. The first violation carries a monetary fine. Continued violations will cause staff to docket the special use permit for review by City Council for possible revocation.

03/09/17  
Date

Karl Moritz / AD

Karl Moritz, Director  
Department of Planning and Zoning